IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5947 OF 2006

Mrs.Prajakta Parshuram Ambetkar Petitioner
versus
The Chief Executive Officer,
Child Welfare Department,
Z.P.Alibag and others Respondents

Mr.Tejas Dande for petitioner.

Mr.C.J.Gavnekar for respondents 1 and 2.

Mr.R.D.Rane, G.P. for respondent no.4.

Mr.Pradeep M. Patil for respondent no.3.

CORAM : F.I.REBELLO AND
R.V.MORE, JJ.

DATE : 22nd January 2007

PC :

1. The petitioner and respondent no.5 had both applied for the post of Anganwadi Sevika. The petitioner has passed 9th standard whereas respondent no.5 has passed 12th standard. The respondent no.5 complained that even though she was better qualified, the petitioner was issued the letter of appointment and an enquiry was conducted and the order of 21st August 2006, the appointment in favour of the petitioner was

cancelled and it was directed that respondent no.5 be issued the letter of appointment. Considering the controversy we had directed the learned counsel for Zilla Parishad to produce the record of the Marking System. From the above we find the following.

2. On the merit chart recorded on 1st April 2006 the petitioner had obtained 60 marks and respondent no.5 had obtained 60 marks. However, the respondent no.5, out of 20 marks for orals, was not given any marks, whereas the petitioner was given full marks of 20 for the viva-voce. On the contrary we find that the Selection Committee which met on 1st April 2006, granted the petitioner 300 marks and similarly awarded 300 marks to the respondent no.5. No explanation is given why respondent no.5 was not given any marks. We could have understood if in the subsequent oral interview respondent no.5 was given lesser marks. On the contrary, both the petitioner and respondent no.5 secured 300 marks each. We are clearly of the opinion that the record was prepared to favour the petitioner and if upon an enquiry correct facts have come on record, it is always open to respondent no.1 to correct the same. Arbitrary action in selection

process or action of not allotting marks cannot be sustained in law. In the light of that, as there is power in respondent no.1 to recall an order, if mistake is discovered, we find no reason as to why the respondent no.1 in the present case ought not to have exercised that power.

3. In the light of that we find no merit in the petition. Interim relief earlier granted stands vacated. Rule discharged. There shall be no order as to costs.

(R.V.MORE, J.) (F.I.REBELLO, J.)